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**State of Washington
GROWTH MANAGEMENT HEARINGS BOARD
FOR EASTERN WASHINGTON**

LIBERTY LAKE SEWER & WATER DISTRICT,
a special purpose district,

Petitioner,

v.

CITY OF LIBERTY LAKE, a municipal
corporation,

Respondent.

Case No. 04-1-0001

ORDER ON MOTION TO DISMISS
PETITION FOR REVIEW

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I. BACKGROUND

On January 16, 2004, LIBERTY LAKE SEWER & WATER DISTRICT, by and through its attorney, Dawn Findlay, filed a Petition for Review.

On February 13, 2004, the Board held a telephonic Prehearing conference. Present were Judy Wall, Presiding Officer, and Board Members D.E. "Skip" Chilberg and Dennis Dellwo. Present for Petitioner was Dawn Findlay. Present for Respondent was Brian McGinn.

At the Prehearing conference the Board received no objections from the parties to consolidating this case with Case No. 03-1-0007. The Board instructed the parties to contact Mr. Driskell, attorney for City of Spokane Valley, Petitioner in Case No. 03-1-0007.

On February 20, 2004, the Board issued its Prehearing Order.

On February 20, 2004, the Board received Mr. Driskell's written response to consolidation.

On February 24, 2004, the Board issued its Order on Consolidation after reviewing the arguments of the parties and the written response received from Mr. Driskell.

On March 4, 2004, the City of Liberty Lake filed the City of Liberty Lake's Motion to Dismiss Petition for Review, along with a supporting memorandum.

1 On March 19, 2004, the District filed the Liberty Lake Sewer & Water District's
2 Response to Dispositive Motion to Dismiss Petition for Review.

3 On March 26, 2004, Liberty Lake filed the City of Liberty Lake's Reply Memorandum
4 in Support of Motion to Dismiss Petition for Review.

5 On April 5, 2004, the Board conducted a hearing on Liberty Lake's Motion to Dismiss
6 Petition for Review. Present were Judy Wall, Presiding Officer, and Board members D.E.
7 "Skip" Chilberg and Dennis Dellwo. Present for Petitioner was Dawn L. Findlay. Present for
8 Respondent was Brain McGinn.

9 II. FINDINGS AND CONCLUSIONS

The Board finds and concludes as follows:

- 10 1. On September 16, 2003, Liberty Lake enacted Ordinance No. 118,
11 which officially adopted the Comprehensive Plan of the City of Liberty
12 Lake.
- 13 2. On or about January 16, 2004, the Liberty Lake Sewer & Water District
14 (the District) filed its Petition for Review challenging the adoption of
15 Ordinance No. 120 as being out of compliance with the Growth
16 Management Act (GMA).
- 17 3. The District stipulated at oral argument that WAC 242-02-220(5),
18 providing that a petition relating to a failure to take an action by a
19 deadline specified in the act may be brought at any time after the
20 deadline has passed, had no application in this case and therefore did
21 not obviate the applicable stature of limitations.
- 22 4. The jurisdiction of the Board is limited to the matters listed in RCW
23 36.70A.280.
- 24 5. To the extent the Petitioners are challenging the adequacy of the
25 capital facilities planning in Liberty Lake's comprehensive plan, such a
26 petition must be filed within 60 days of its publication, and this was not
timely done.
6. Ordinance No. 120 relates to authority under RCW 35.13A by the City
of Liberty Lake. Ordinance No. 120 does not adopt a comprehensive
plan, adopt development regulations, or constitute an amendment to a
comprehensive plan or development regulation.

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2 7. The District's challenge to Ordinance No. 120 is outside the subject
3 matter jurisdiction of the Board as provided in RCW 36.70A.280.

4 8. The Board may properly enter an order on a dispositive motion of
5 Liberty Lake because it has been determined that the Board does not
6 have jurisdiction to review the Petition under RCW 36.70A.280.

7 **III. ORDER**

8 Based upon review of the Petition for Review, the briefs and materials submitted by
9 the parties, and having considered the oral arguments of the parties, and deliberated on
10 the matter, the Board enters the following ORDER:

11 1. The City of Liberty Lake's Motion to Dismiss Petition for Review is GRANTED.

12 2. The Petition for Review is hereby dismissed for lack of subject matter
13 jurisdiction.

14 **Pursuant to RCW 36.70A.300(5), this is a Final Order for purposes of
15 appeal. Pursuant to WAC 242-02-832, a motion for reconsideration may be filed
16 within ten days of service of this Final Decision and Order.**

17 **SO ORDERED** this 13th day of April 2004.

18 EASTERN WASHINGTON GROWTH MANAGEMENT
19 HEARINGS BOARD

20 _____
21 Judy Wall, Board Member

22 _____
23 Dennis Dellwo, Board Member

24 _____
25 D.E. "Skip" Chilberg, Board Member